

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Steven Antoine Simmons,

Plaintiff

v.

State of Nevada, et al.,

Defendants

Case No. 2:22-cv-00367-CDS-VCF

**Order Denying Plaintiff's Application to
Proceed in Forma Pauperis and Striking
Rogue Documents**

[ECF Nos. 18, 19, 20]

Pro se plaintiff Steven Simmons initiated this civil-rights action in February 2022. Compl., ECF No. 1-1. In June 2022, I screened the complaint under 28 U.S.C. § 1915A and dismissed it in its entirety, without prejudice, and with leave to amend. Order, ECF No. 6. Simmons was given 30 days to file an amended complaint curing the deficiencies outlined in my order. *Id.* at 9.

The screening order was delivered to Simmons by mail to his address at the Clark County Detention Center, and on June 23, 2022, the mail was returned as undeliverable. ECF No. 8. Under Local Rule IA 3-1, a party must immediately file with the court a written notification of any change of mailing address. Thus, Magistrate Judge Cam Ferenbach (Ret.) directed Simmons to file a notice of change of address by July 27, 2022. Order, ECF No. 9. Simmons was cautioned that his failure to comply would result in dismissal of this action. *Id.* The order was again delivered to Simmons' address at the Clark County Detention Center, but the order was ultimately returned as undeliverable. ECF No. 10. Simmons failed to update his address by the deadline and failed to respond to the court's orders so on August 5, 2022—after thoroughly considering the five dismissal factors articulated in *Malone v. U.S. Postal Service*—Simmons' case was dismissed for failure to comply with the court's June 27, 2022 order. 833 F.2d 128, 130 (9th Cir.1987). Order, ECF No. 11. The Clerk of Court entered judgment and closed the case. J., ECF No. 12.

1 Approximately six months later, Simmons filed a motion for status of case and notice of
2 change of address. ECF Nos. 14, 15. Simmons was informed that because this case was dismissed
3 and closed in August 2022, no other documents may be filed in this case. Order, ECF No. 16.
4 Simmons was also instructed that if he wished to pursue his claims, he must file a complaint in a
5 new case. *Id.* Despite this instruction, Simmons has continued to file documents in this action; he
6 has since filed an application to proceed *in forma pauperis* (ECF No. 18), an amended complaint
7 (ECF No. 19), and motion to dismiss the amended complaint (ECF No. 20). While Simmons'
8 motion to dismiss acknowledges that these documents were filed into this case in error, these
9 documents are rogue documents and are hereby stricken. *Spurlock v. F.B.I.*, 69 F.3d 1010, 1016 (9th
10 Cir. 1995) (the district court has inherent authority to strike improper filings "to promulgate and
11 enforce rules for the management of litigation").

12 **Conclusion**

13 IT IS THEREFORE ORDERED that Simmon's application to proceed *in forma pauperis*
14 [ECF No. 18] is DENIED and STRICKEN.

15 IT IS FURTHER ORDERED that Simmon's amended complaint [ECF No. 19] and motion
16 to dismiss the amended complaint [ECF No. 20] are STRICKEN.

17 Dated: June 3, 2024

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19 Cristina D. Silva
20 United States District Judge
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